

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY LYNN RANDALL,

Defendant-Appellant.

UNPUBLISHED

March 1, 2007

No. 267689

Wayne Circuit Court

LC No. 05-007334-01

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of two counts of armed robbery, MCL 750.529, and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced to 12 to 25 years' imprisonment each for the two armed robbery convictions. Defendant's imposed two-year sentence for felony-firearm runs consecutively to the armed robbery sentences. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the evidence was not sufficient to support a conviction for armed robbery, and that he did not possess the felonious intent necessary to sustain an armed robbery conviction, because he had a good faith belief that the money he demanded was his money. Defendant claims further that his convictions cannot be sustained because aggravated assault or serious injury to the victim is an element of an armed robbery offense, and that there was no evidence of an aggravated assault or serious injury to either of the victims. We disagree.

In an appeal challenging the sufficiency of the evidence presented to sustain a conviction, this Court views

the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. [*People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994).]

See also *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979). The prosecution may offer circumstantial evidence and reasonable inferences as proof of the elements of a crime. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999).

Armed robbery¹ has the following elements: “(1) an assault, (2) a felonious taking of property from the victim’s presence or person, (3) while the defendant is armed with a weapon described in the statute.” *Id.* at 757. This Court has held that “[a]rmed robbery is a specific intent crime,” and the prosecution must prove that “the defendant intended to permanently deprive the owner of property.” *People v King*, 210 Mich App 425, 428; 534 NW2d 534 (1995). A defendant may lack the requisite intent to commit armed robbery if he has a good faith belief that he was entitled to the property in question. *People v Holcomb*, 395 Mich 326, 333; 235 NW2d 343 (1975); *People v Henry*, 202 Mich 450, 455; 168 NW 534 (1918). This Court held that such a defendant “could not be guilty of either robbery or larceny in taking it, because there would be no felonious intent.” *Id.* However, this Court has subsequently ruled that a “defendant’s claim of right must be legally recognizable and made in good faith.” *People v Hobbs*, 68 Mich App 239, 241; 242 NW2d 535 (1976). This Court has explained that knowledge that the claim for money arose from an illegal transaction negates the existence of a good faith belief. *People v Karasek*, 63 Mich App 706, 713; 234 NW2d 761 (1975).

Defendant’s right of claim defense is without merit. Even accepting defendant’s own version of the facts, defendant admitted that the basis of his claim for money from the victims was an alleged drug sale. In analogous cases, this Court rejected the defendants’ claim of right defenses. *Karasek, supra* at 709 (defendant admitting money owed from drug sale); *Hobbs, supra* at 241 (defendant admitting money used to purchase defective cocaine). Similarly, we reject defendant’s claim of right defense, because his right of claim for the stolen money and wallet arises out of an illegal transaction.

Defendant’s other argument is also without merit. Defendant misstates Michigan law by adding another element, specifically “aggravated assault or serious injury to the complainant,” as an element of armed robbery to be proven by the prosecution. This is not an element of the crime. *Carines, supra*. Defendant confuses an aggravating factor in sentencing for an element of the crime. Viewing the evidence in a light most favorable to the prosecution, we conclude that a rational trier of fact could find that the essential elements of the crime of armed robbery were proven beyond a reasonable doubt in this case.

¹ MCL 750.59 provides the following definition for the crime of “Armed robbery; aggravated assault:”

A person who engages in conduct proscribed under section 530 and who in the course of engaging in that conduct, possesses a dangerous weapon or an article used or fashioned in a manner to lead any person present to reasonably believe the article is a dangerous weapon, or who represents orally or otherwise that he or she is in possession of a dangerous weapon, is guilty of a felony punishable by imprisonment for life or for any term of years. If an aggravated assault or serious injury is inflicted by any person while violating this section, the person shall be sentenced to a minimum term of imprisonment of not less than 2 years.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Jane E. Markey

/s/ Kurtis T. Wilder